

Eighty-Sixth Regular Session

WEDNESDAY, August 29, 1984

The chief clerk makes the following entries under the above date.

COMMITTEE REPORTS

The committee on Urban Affairs and Government Operations reports and recommends:

THE WHEDA SURPLUS: Wisconsin Housing and Economic Development Authority fiscal year 1984-85 plan for utilization of surplus reserves.

The committee objects to the WHEDA 1984-85 Surplus Plan unless modified to reallocate a minimum of \$500,000 not to exceed \$1 million from Plan Category 2, "Lending and Liquid Reserves", to Plan Category 4, "Grants and Services", with special emphasis to be given to using the reallocated money for innovative, demonstration, and alternative housing efforts, including cooperative housing, with special emphasis on the needs of low-income, special needs and senior citizens.

Ayes, 4 -- Senators Lee, Strohl, Van Sistine and Johnston;

Noes, 1 -- Senator Davis.

MORDECAI LEE
Chair

Wisconsin State Senate
Senate Chief Clerk

August 27, 1984

Dear Governor Earl:

Attached is a copy of the report of the Senate committee on Urban Affairs and Government Operations requesting your concurrence in proposed modifications to the Wisconsin Housing and Economic Development Authority fiscal year 1984-85 plan for utilization of surplus reserves.

It is our understanding that your review of the proposed modifications will extend the committee review period for 10 days.

Please notify us, at your earliest convenience, of your plans to concur or nonconcur in the proposed modifications.

Thank you for your consideration in this matter.

Sincerely,
DONALD J. SCHNEIDER
Senate Chief Clerk

State of Wisconsin
Office of the Governor
Madison, Wisconsin

August 27, 1984

To the Honorable, the Senate:

I have received notification of the Senate committee on Urban Affairs and Government Operations' request for modifications in the Wisconsin Housing and Economic Development Authority's 1984-85 plan for using surplus reserves.

By this letter I am informing you and the committee that we will consider the modifications sought and invoking the ten day extension to the standing committee review period. Thank you for your help.

Respectfully,
ANTHONY S. EARL
Governor

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Claims Board

August 23, 1984

Don Schneider
Senate Chief Clerk
Madison, Wisconsin

Dear Mr. Schneider:

Enclosed is the report of the State Claims Board covering claims heard on August 13, 1984.

The amounts recommended for payment under \$1000 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$1,000, and will submit such to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature.

Sincerely,
EDWARD D. MAIN
Secretary

STATE OF WISCONSIN CLAIMS BOARD

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on June 28, 1984, upon the following claims:

| Claimant | Amount |
|--------------------|-------------|
| Hy Dorosin | \$ 7,900.44 |
| Mary Holman Estate | 24,000.00 |
| Doris Grenzow | 630.00 |

In addition, the following claims were considered and decided without hearings:

| | |
|-----------------------|-----------|
| Doris Tanko | \$ 172.95 |
| Stella Harms | 516.08 |
| Anthony Balistreri | 2,250.00 |
| Village of New Auburn | 875.00 |
| Barbara Pratt | 98.93 |
| Jack Shaefer | 64.57 |
| Todd Anderson | 151.84 |

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| | |
|--------------------------|--------|
| John Belknap | 346.50 |
| Lyndsy Fedor Struck | 45.85 |
| C. Levonne Laughinghouse | 100.00 |
| Craig Chamberlain | 85.30 |

THE BOARD FINDS:

1. Hy Dorosin, of Chicago, Illinois, claims interest on the amount of \$7,900.44 for a claim that was decided on June 28, 1984. The Board recommended at that Claims Board hearing full payment of the claim. The claimant and his attorney are now requesting the Board to reconsider the portion of the claim relating to interest from the date the claim was made until payment is made. The Board concludes this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

2. The Estate of Mary Holman of Menomonie claims \$24,000.00 for death benefits entitled to be received because of inaccurate information in a Department of Employee Trust Funds brochure. The brochure did not state that only beneficiaries who were dependents or a spouse were eligible to receive a larger death benefit. Because Mary Holman died after the age of 60, unmarried and without dependents, the death benefit was limited to employe contributions. The estate claim is for the aggregate amount of employe and employer contributions plus interest from the time of Ms. Holman's death. The estate filed an appeal with the Department of Employee Trust Funds and was denied. The Board concludes this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

3. Doris Grenzow of Madison claims \$630.00 for damages to her car during the fall of 1983 and winter of 1984 while it was parked in the GEF-3 underground parking garage. Claimant alleges a solution was dripping from a crack in the ceiling onto her car which caused the paint to lift off down to the metal causing the vehicle to rust. Claimant signed an application form for parking in GEF-3 which stated, "Management is not responsible for loss of articles, damage or theft of vehicles. Subscribers park at their own risk. . ." The Board concludes there has been no showing of negligence on the part of the state, its officers, agents, or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

4. Doris M. Tanko of Milwaukee claims \$172.95 for the \$100.00 deductible not paid by her insurance carrier for damages occurring on November 29, 1983, when her vehicle was damaged in an accident and \$72.95 for rental of a car while her vehicle was being repaired. Claimant was performing her job duties as an employe of the Department of Industry, Labor and Human Relations Job Service Office when another car ran a red light and hit claimant's vehicle. Claimant's insurance company has paid \$2,600 for repairs to her vehicle. The claimant received a mileage reimbursement from the state which is supposed to cover all costs associated with the use of her personal vehicle. The Board concludes there has been no

showing of negligence on the part of the state, its officers, agents, or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

5. Stella E. Harms of Muscoda claims \$516.08 for the amount of an assessment made by the Department of Revenue on June 5, 1983 to recover excessive homestead credit refunds received by claimant. Claimant alleges she paid the assessment to evade any further assessment or penalties and she thought there would be a possibility of this being refunded after the Department of Revenue learned the reason for the error in filing. claimant's 1980 and 1981 homestead credit claims were based on sole ownership of the home and she received homestead credit as though she were the sole owner. The Department of Revenue learned that claimant had executed a warranty deed, dated October 23, 1979, transferring two-thirds interest in her residence to her two daughters. The Department of Revenue then recomputed her 1980 and 1981 claims based on the one-third interest on her residence. The Department of Revenue denied her redetermination of the assessment. The Board concludes there has been no showing of negligence on the part of the state, its officers, agents, or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

6. Anthony Balistreri of Waupun claims compensation of \$2,250.00 for wrongful imprisonment. Claimant was charged and convicted of endangering safety by conduct regardless of life. The Wisconsin Supreme Court reversed claimant's conviction on the grounds that evidence was insufficient to convict him of violating s.941.30, Stats. The Board concludes that the evidence does not show that the claimant was innocent of the crime for which he suffered imprisonment and consequently the claim for compensation is denied.

7. The Village of New Auburn claims \$875.00 for use of village trucks in trying to suppress a fire at a Department of Natural Resources building at the Chippewa Moraine State Park located in the Town of Sampson, Chippewa County, on March 6, 1983. The Town of Sampson pays the Village for fire protection for property in the Township. The Town pays the Village for labor costs at the end of the year. Claimant states that the Department of Natural Resources has agreed to pay the labor for the call but not the truck expenses. It is the Department's belief that the state aid programs effectively provide payments to local municipalities for services such as fire control, rendered for state facilities. The Board concludes there has been no showing of negligence on the part of the state, its officers, agents, or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

8. Barbara Pratt of Madison claims the replacement cost of her coat along with a dry cleaning bill of \$6.93 in an attempt to remove the stain from her coat which occurred on March 19, 1984 while driving a state car on business. Claimant was wearing her seatbelt and when

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she removed the belt, she noticed a large black grease mark on the coat. The mark could not be removed by dry cleaning. The Board decided at the June 28, 1984 hearing to pay \$80 and have the claimant turn the coat into State Protective Services for disposal at the lost and found sales. Claimant has asked for a rehearing on the original claim as she does not want to turn the coat into Protective Services. The Board reaffirms its prior decision of June 28, 1984 and concludes under authority of s. 16.007(6m), Stats., payment of \$80.00 should be made from the Department of Administration appropriation s. 20.505(4)(d), Stats., after the claimant turns her coat into State Protective Services.

9. Jack Shaefer of Milwaukee claims \$64.57 for replacement cost of his car battery and battery cables allegedly stolen from his vehicle while parked in a facility on the UW-Milwaukee campus in December, 1983. The claim was previously presented to the Department of Administration Risk Management Office and denied based on a finding of no negligence on the part of state officers or employees. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

10. Todd Anderson of Platteville claims \$151.84 for television repair expenses and telephone expenses incurred as a result of damages to a television set which he picked up at the UW-Platteville housing office in December, 1983. The television was shipped by Foreway Express Company to the UW where it was received by central docks as being in "apparent good order." The television was then transported to the housing office in order to notify claimant of the package and at that time, claimant alleges the package was found to be damaged in the upper left hand corner. Upon unpacking the television, claimant found that the television was damaged. The Board concludes this claim in the reduced amount of \$100.00 should be paid on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats. that payment should be made from the University of Wisconsin appropriation s. 20.285(1)(h), Stats.

11. Lyndsy Fedor Struck of Madison claims \$45.85 for a medical bill. This bill was incurred on October 31, 1983, based on reliance from the UW-Madison Insurance Office, that her husband would be covered for any medical treatment through her policy. However, the claimant's insurance coverage was not effective until November 1, 1983. The Board concludes the claim should be paid based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats., payment should be made from the University of Wisconsin appropriation s. 20.285(1)(a), Stats.

12. C. Levonne Laughinghouse of Milwaukee claims \$100.00 for the uninsured portion of his sports equipment allegedly stolen from the men's locker room

on the UW-Milwaukee campus between November 25-29, 1982. Upon return from Thanksgiving break, the lockers had been removed and some of his belongings were stacked on the floor and others were missing. The locker area was posted before the Thanksgiving break for remodeling and in the notice it stated all belongings should be removed. The UW emptied all the lockers which still held people's belongings and bagged and numbered them. Claimant did not pick up his equipment. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

13. Craig Chamberlain of Madison claims \$85.30 for damage to his motorcycle on April 27, 1984 while it was parked at the Sherman School. A resident of Central Wisconsin Colony attending a day program at the school tipped the motorcycle over while attempting to climb onto it. The Board concludes the claim should be paid based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health and Social Services appropriation s. 20.435(2)(gk), Stats.

THE BOARD CONCLUDES:

1. The claims of the following claimants should be denied:

- Hy Dorosin
- Mary Holman Estate
- Doris Grenzow
- Doris Tanko
- Stella Harms
- Anthony Balistreri
- Village of New Auburn
- Jack Shaefer
- C. Levonne Laughinghouse

2. Payment of the following amounts to the following claims is justified under s. 16.007, Stats.:

| | |
|---------------------|----------|
| Barbara Pratt | \$ 80.00 |
| Todd Anderson | 100.00 |
| Lyndsy Fedor Struck | 45.84 |
| Craig Chamberlain | 87.57 |

Dated at Madison, Wisconsin this 21st day of August, 1984.

JOHN J. MAURER
Senate Finance Committee
Absent

MARLIN D. SCHNEIDER
Assembly Finance Committee

JUAN B. COLAS
Representative of Governor

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EDWARD D. MAIN
Representative of Secretary of
Administration

WILLIAM H. WILKER
Representative of Attorney
General

SENATE CLEARINGHOUSE ORDERS

The committee on Energy and Environmental Resources reports and recommends:

Clearinghouse Rule 83-213

AN ORDER to amend PSC 165.043 (4), 165.08 (3) and 165.082 (4); to repeal and recreate PSC 165.043 (4) (c) and (d) and 165.051 (4); and to create PSC 165.043 (4) (e) and (f), 165.05 (1) (c) 8 and 165.052 (2) (e), relating to practices of telephone utilities.

No action taken.

JOE STROHL
Chair

The joint committee for Review of Administrative Rules reports and recommends:

Clearinghouse Rule 83-136

AN ORDER to repeal HSS 1.01 (2) (j) and 1.03 (18) (a) and (21); to renumber HSS 1.01 (2) (k) to (m) and 1.03

(11) (b) 3, 4 and 5 and (18) (b) and (c); to renumber and amend HSS 1.03 (12); to amend HSS 1.01 (1), (2) (g) and (4) (c), 1.02 (1), 1.03 (8), (10), (11) (b) 5 a, as renumbered, (13), (13m), (14) (a), (15) and (18) (b), as renumbered, 1.04 (1) (d) (intro.) and (2) (e) and 1.05 (1) (b), (4) and (13) (c) (intro.); to repeal and recreate HSS 1.02 (6) and 1.04 (1) (d) 7 Note; and to create HSS 1.03 (11) (b) 3, (12) (b) and (18) (title) and 1.04 (2) (f), relating to the uniform fee system established under ss. 46.03 (18) and 46.10, Stats.

Objection:

Ayes, 6 -- Senators Kincaid, Norquist, Czarnecki, Representatives Rogers, Brist and Seery;

Noes, 1 -- Representative Crawford.

LLOYD H. KINCAID
Co-chair

WILLIAM J. ROGERS
Co-chair